

December 17, 2010



MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
December 17, 2010

I. OPENING OF MEETING AT 11:03 A.M. AT 160 N. LASALLE ST., SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Olga Iniguez and Mark Magill (by telephone), Illinois Department of Central Management Services; and Brent Eggleston, Illinois Department of Agriculture.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD NOVEMBER 19, 2010

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 19, 2010.



IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>No. of Exempt Positions</u>
Aging	144.....	10
Agriculture	537.....	16
Arts Council.....	19.....	2
Capitol Development Board	45.....	0
Central Management Services	1,409.....	113
Children and Family Services	2,994.....	48
Civil Service Commission	3.....	0
Commerce & Economic Opportunity	424.....	67
Commerce Commission.....	70.....	0
Corrections.....	11,433.....	103
Criminal Justice Authority	60.....	5
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency	92.....	7
Employment Security.....	1,942.....	29
Environmental Protection Agency	916.....	16
Financial & Professional Regulation	484.....	41
Gaming Board.....	84.....	5
Guardianship and Advocacy	109.....	7
Healthcare and Family Services.....	2,283.....	25
Historic Preservation Agency	204.....	9
Human Rights Commission	14.....	2
Human Rights Department	138.....	8
Human Services	13,234.....	77
Insurance.....	247.....	11
Investment Board.....	2.....	1
Juvenile Justice	1,182.....	19
Labor.....	77.....	7
Labor Relations Board Educational	12.....	2
Labor Relations Board State	18.....	2
Law Enforcement Training & Standards Bd.....	18.....	2
Medical District Commission	2.....	0
Military Affairs	124.....	3
Natural Resources	1,236.....	26
Pollution Control Board.....	20.....	1
Prisoner Review Board	20.....	0
Property Tax Appeal Board	23.....	1
Public Health.....	1,079.....	41
Racing Board	2.....	0
Revenue	2,003.....	56
State Fire Marshal	136.....	12
State Police	1,310.....	4
State Police Merit Board.....	6.....	1
State Retirement Systems	85.....	2
Transportation.....	2,353.....	0
Veterans' Affairs.....	1,196.....	7
Workers' Compensation Commission	169.....	8
TOTALS	47,974.....	798



B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *



C. Requests for 4d(3) Exemption

- As to Item C, Executive Director Stralka reported this request is for the Project Manager for Economic Development in the Department of Agriculture, a position that reports to the Director. This position has principal policy responsibility for implementing the agency's economic development program to retain and attract new businesses focusing on the southern region. This includes developing governmental incentive packages.

The history of this position started in September 2004 when it was first approved for exemption. At that time, it was submitted along with similar positions in the Department of Natural Resources (DNR) and the Illinois Environmental Protection Agency (IEPA). Though staff noted the potential for duplication with positions at the Department of Commerce & Economic Opportunity (DCEO), it recommended approval and all three positions were approved. It was noteworthy that an Assistant Director at DCEO appeared and spoke on behalf of these requests noting that they would work in concert with DCEO Opportunity Returns positions.

The exemptions for this position and the IEPA position were rescinded in November 2007 due to extended vacancy. The DNR position and exemption continues in existence to this day. The exemption for this requested position was reestablished in November 2008 based on the agency's representation that it was prepared to fill the position. That turned out not to be the case as the position went unfilled and its exempt status was again rescinded in November 2009 due to extended vacancy.

The exemption history of this position and concerns raised by the Commission Staff were highlighted by the Auditor General as a boxed "Case Example" in its recent management audit of exemptions granted by the Commission.

The agency resubmitted this position back in June of this year and this request has been continued ever since as the Staff expressed concerns with this request over its historical non-usage as well as concerns over the substance of the request. The Staff's major substantive concern had to do with the potential for overlap with DCEO's Opportunity Returns positions.

In reviewing this request, Staff contacted DCEO with respect to which of these agencies or positions has "principal" policy authority in this area of managing economic development initiatives in the various State regions. DCEO indicated that while it works cooperatively with State agencies on specific projects, it considers itself the lead agency for all economic development efforts. In fact, Section 605-300 of DCEO's enabling statute indicates it is "to formulate plans for the economic development of the State of Illinois." DCEO also indicated that its regional managers had responsibilities for some of the "Essential Functions" set forth on the Position Description form such as "Manages the project components



associated with economic development project components including the development of governmental incentives packages and the business retention, expansion and recruitment projects.” Given this response, Staff concluded that principal policy responsibility for economic development initiatives throughout the State lies within DCEO and not other agencies. For these reasons, Staff recommended that this request be denied.

The agency responded is that it requires a position devoted 100% to developing agricultural business in the south-central region of the State. It pointed to under-utilization of the DuQuoin Fairgrounds as an asset that this position could better market for the State. It noted how the Commission had twice before approved the exemption request for this position and how DCEO had previously supported this exemption request when the position was first placed before the Commission for approval of its exemption.

Brent Eggleston, Director of Human Resources, Illinois Department of Agriculture, appeared on behalf of the agency to speak in support of this request. He noted how the State was losing money by failing to bring special events to southern Illinois. Commissioner Dalianis noted how this was a worthy goal but questioned the need for a 4d(3) exempt position to perform these marketing functions. Brent Eggleston responded that was because it would directly report to the agency director and all direct reports are 4d(3) exempt positions. Commissioner Peterson questioned whether the geographic responsibilities of this position were limited to the southern portion of the State. Eggleston responded that the position would be based in the southern region since the agency has offices at the DuQuoin fairgrounds but it has statewide responsibilities. He added that the State missed an opportunity to host a major softball tournament, an event that DCEO did not pursue. Commissioner Peterson cited the experience of the Will County Fairgrounds which hosts many similar such events without the need for a marketing position as the agency was requesting here. Chairman Kolker commented that he sympathized with the agency’s need for a position to better market the DuQuoin fairgrounds since there are economic development opportunities that have gone to competing states. He also expressed concern with the overlap with DCEO and noted how the report of the Auditor General was critical of how the agency and Commission treated this position since its establishment in 2004.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 4-0 TO DENY THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

C: Project Manager for Economic Development (Agriculture)



The following 4d(3) exemption request was denied December 17, 2010:

C. Illinois Department of Agriculture

Position Number	40070-11-01-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Project Manager for Economic Development
Incumbent	Vacant
Supervisor	Director
Location	Perry County

V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

Commissioner Raymond W. Ewell arrived at 11:25 a.m. after the roll call vote and before the start of the Executive Session.

December 17, 2010



VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:49 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	10/31/10	11/30/10	11/30/09
Aging	0	1	1
Agriculture	3	0	2
Central Management Services	0	1	1
Children and Family Services	1	1	10
Commerce and Economic Opportunity	0	2	0
Employment Security	3	1	3
Healthcare and Family Services	1	5	4
Historic Preservation	7	0	0
Human Services	0	1	1
Natural Resources	5	0	18
Transportation	1	2	10
Totals	21	14	50



IX. INTERLOCUTORY APPEAL

DA-28-11

Employee	Timothy E. Sperry	Appeal Date	10/25/10
Agency	SFM	Decision Date	11/23/10
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Probationary discharge	Proposal for Decision	Grant Motion to Dismiss subject to Commission approval; no jurisdiction (not certified).

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION TO GRANT THE MOTION TO DISMISS AS MR. SPERRY HAD NOT COMPLETED HIS PROBATIONARY PERIOD TO ACHIEVE THE STATUS OF A CERTIFIED EMPLOYEE SUBJECT TO JURISDICTION B WHEN HE WAS DISCHARGED. THEREFORE, THE COMMISSION HAS NO JURISDICTION OVER THIS MATTER.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

DA-38-10

Employee	Terry E. Shaffner	Appeal Date	02/19/10
Agency	DOT	Decision Date	12/03/10
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Violation of alcohol/drug policy	Proposal for Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED DECEMBER 3, 2010.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		



DA-42-10

Employee	Lula Carwell	Appeal Date	03/12/10
Agency	DHS	Decision Date	12/03/10
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Recipient abuse; conduct unbecoming	Proposal for Decision	Charges are not proven; discharge is set aside in whole.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE NOT BEEN PROVEN SO THE DISCHARGE IS SET ASIDE IN WHOLE AND LULA CARWELL IS TO BE REINSTATED TO HER POSITION OF SECURITY THERAPY AIDE 1 WITH THE ILLINOIS DEPARTMENT OF HUMAN SERVICES.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

DA-11-11

Employee	William J. Watson	Appeal Date	07/22/10
Agency	DOC	Decision Date	12/03/10
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Brought contraband into a penal institution; used personal cell phone to make calls, send text messages, or access the internet while on duty	Proposal for Decision	Charges are proven and warrant 60-day suspension.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT 60-DAY SUSPENSION IN LIEU OF DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED DECEMBER 3, 2010.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

**LA-6-10**

Employee	Dianne Bradie-Gregoire	Appeal Date	08/28/09
Agency	DHS	Decision Date	11/23/10
Type	Layoff	ALJ	Andrew Barris
Allegation(s)	Violation of Sections 302.520, 530, 570 & 580 of the Personnel Rules and Sections 8b.13, 14 & 11b of the Personnel Code	Proposal for Decision	No violation.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE EMPLOYEE HAS NOT PROVED BY A PREPONDERANCE OF THE EVIDENCE THE ALLEGATIONS CONTAINED WITHIN THE LAYOFF APPEAL. HAVING FOUND NO VIOLATION OF PERSONNEL CODE OR PERSONNEL RULES, THE APPEAL IS DENIED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. APPEAL TERMINATED WITHOUT DECISION ON THE MERITS

S-13-09

Employee	Luz Marina Guerra	Appeal Date	10/2/08
Agency	DES	Decision Date	12/8/10
Type	Suspension	ALJ	Daniel Stralka
Charge(s)	Personal conversation on cell phone; unprofessional conduct; failure to follow procedures	Proposal for Decision	Dismissed subject to Commission approval; withdrawn.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO DISMISS THE APPEAL AS THE PARTIES FILED A STIPULATION TO DISMISS ON DECEMBER 7, 2010.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		



XII. FISCAL YEAR 2010 ANNUAL REPORT

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO APPROVE THE FISCAL YEAR 2010 ANNUAL REPORT.

XIII. REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

Assistant Executive Director Barris reported that after review of the Executive Session Minutes, the need for confidentiality still exists as to all those Minutes.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.

XIV. STAFF REPORT

Executive Director Stralka reported that the agency made a tentative fiscal year 2012 budget submission of \$369,000 to the Governor's Office of Management & Budget on December 6, 2010.

XV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, January 21, 2011 at 11:00 a.m. in the Commission's Chicago office.

XVI. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 12:00 P.M.